

BEFORE

THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NOS. 97-272-C AND 97-273-C - ORDER NO. 97-890

OCTOBER 16, 1997

IN RE: Application of Telephone Company of) ORDER
Central Florida for a Certificate of) APPROVING
Public Convenience and Necessity to) CERTIFICATE
Resell Interexchange Telecommunications)
Services in South Carolina.)

AND

IN RE: Application of Telephone Company of)
Central Florida for a Certificate of)
Public Convenience and Necessity to)
Provide Resold Local Exchange Telecomm-)
unications Services in South Carolina.)

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of two applications filed by Telephone Company of Central Florida ("TCCF" or "the Company"). One Application requested that the Commission grant a Certificate of Public Convenience and Necessity for the Company to provide resold intrastate interexchange services within the State of South Carolina; the other Application requested that the Commission grant a Certificate of Public Convenience and Necessity to provide resold local exchange services within the State of South Carolina. The Applications were filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated July 17, 1997, the Commission's Executive

Director instructed TCCF to publish, one time, prepared Notices of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notices of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. TCCF complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") in Docket No. 97-273-C on TCCF's Application requesting authority to provide local services. No Petitions to Intervene were received with regard to Docket No. 97-272-C which requested long distance authority.

By Order No. 97-772 (dated September 8, 1997), the Commission granted TCCF's request to consolidate the hearings on the two Applications. A hearing was convened on September 25, 1997, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. TCCF was represented by James Freeman, Esquire, and the Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. SCTC did not appear at the hearing.

Prior to the hearing, TCCF and the SCTC executed a Stipulation dated September 23, 1997. The Stipulation was filed with the Commission prior to the hearing. The Stipulation was entered into evidence at the hearing as Hearing Exhibit No. 1. The Stipulation provides the following:

- (1) The SCTC does not oppose the granting of a statewide

Certificate of Public Convenience and Necessity to TCCF if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;

(2) TCCF agrees that any Certificate granted by the Commission will authorize TCCF to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;

(3) TCCF agrees that it is not requesting the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas;

(4) TCCF agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until TCCF provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. TCCF also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) TCCF agrees that if, after TCCF gives notice that it intends to serve a customer located in a rural incumbent LEC's

service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then TCCF will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) TCCF acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

(7) TCCF and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) TCCF agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and TCCF and was filed with the Commission prior to the hearing in this matter. We therefore accept and approve the

Stipulation.

At the hearing on this matter, TCCF presented Andrea Welch to testify in support of the Application. Ms. Welch is the Vice President of Administration for TCCF. The purpose of Ms. Welch's testimony was (1) to provide evidence on the financial, technical, and managerial abilities of TCCF to provide interexchange telecommunications services and to provide local exchange service in South Carolina and (2) to discuss the services which TCCF proposes to offer.

DISCUSSION

With respect to local exchange service, the record reveals that TCCF intends to offer local exchange services on a resale basis. S.C. Code Ann. §58-9-280 (Supp. 1996) provides that "the [C]ommission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC."

After full consideration of the applicable law, TCCF's Application, and the evidence presented at the hearing, the Commission finds and concludes that TCCF's request for a Certificate to provide local telephone service in the form of resold local exchange services should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented which relates to that criteria:

(1) The Commission finds that TCCF possesses the technical, financial, and managerial resources sufficient to provide the

services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate TCCF's technical qualifications, witness Welch testified that TCCF currently provides customers in other states with a competitive alternative to the local exchange telephone companies by delivering local network services over resold telecommunications networks. Ms. Welch stated that TCCF has negotiated with BellSouth for a resale agreement in South Carolina and that maintenance and repair of facilities leased from other carriers is performed by the technical personnel of TCCF's underlying carrier, subject to the provisions of their respective tariffs.

Concerning TCCF's managerial qualifications, Ms. Welch testified that TCCF's management team has considerable experience and expertise in management, marketing, network operations, revenue requirements, customer service, and financial and accounting issues. A review of the record indicates that TCCF's management team also has considerable experience in the telecommunications industry. Regarding TCCF's financial resources, Ms. Welch stated that TCCF is a Florida corporation and that TCCF has adequate resources through which to offer its telecommunications services.

No party offered any evidence in opposition to Ms. Welch's testimony. Based on the undisputed testimony of Welch, the Commission finds that TCCF possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that TCCF will provide services

that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Ms. Welch indicated that TCCF intends to offer high quality local exchange service that will afford consumers a competitive alternative to the services offered by incumbent local exchange carriers. Ms. Welch specifically stated that TCCF will meet all service standards that the Commission has or may adopt. No party offered any evidence to dispute Ms. Welch's testimony. Based on the undisputed testimony from Ms. Welch, the Commission believes, and so finds, that TCCF will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that TCCF's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Ms. Welch stated that authorizing TCCF to provide service in South Carolina would not adversely impact affordable local exchange service and that certification of TCCF will provide greater competition in the South Carolina telecommunications marketplace. No party offered any evidence that the provision of local exchange service by TCCF would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by TCCF will not adversely impact affordable local exchange service.

(4) The Commission finds that TCCF will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Ms. Welch testified that TCCF will

comply with all South Carolina and federal universal service requirements. No party disputed Ms. Welch's testimony. Based on the undisputed evidence of record, the Commission finds that TCCF will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by TCCF "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Ms. Welch offered that authorization of TCCF to offer services in South Carolina will further the public interest by increasing competition in the South Carolina marketplace, by ensuring a wide variety of services and prices, by increasing customer choice, by promoting efficient use of the network, and by expanding the tax base and revenue sources for the state. Ms. Welch's testimony was undisputed as no party offered any evidence that approval of TCCF's Application would adversely impact the public interest. Therefore, the Commission finds that approval of TCCF's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

In addition to requesting authority to provide resold local exchange service, TCCF requests authority to provide resold intrastate interexchange telecommunications services. As stated above, the record reveals TCCF's financial, technical, and managerial abilities to provide telecommunications services in South Carolina. The record further shows TCCF's services,

operations and marketing procedures. Upon full consideration of TCCF's Application and the evidence presented at the hearing, the Commission finds that TCCF has the experience, capability, and financial resources to provide resold intrastate interexchange telecommunications services in South Carolina, and further the Commission finds and concludes that TCCF's request for a Certificate to provide resold intrastate interexchange telecommunications services should be granted.

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by TCCF should be granted.

IT IS THEREFORE ORDERED THAT:

1. TCCF is hereby granted a Certificate of Public Convenience and Necessity, and the accompanying authority, to provide (1) local telephone services in the form of resold local exchange services and (2) resold intrastate interexchange telecommunications services. TCCF is hereby authorized to provide intrastate resold local exchange service in South Carolina, and TCCF is hereby authorized to provide resold intrastate interLATA services in South Carolina and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. With regard to TCCF's local service offerings, TCCF shall

file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes to the proposed tariff to which TCCF agreed with the Commission Staff.

3. The Commission adopts a rate design for TCCF for its resale intrastate interLATA services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. TCCF shall not adjust its rates for intrastate interexchange services below the approved maximum level without notice to the Commission and to the public. TCCF shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking

proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1996).

5. With regard to its resold intrastate interexchange services, TCCF shall file its revised maximum tariff and an accompanying price list within thirty (30) days from the date of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. With regard to its resold intrastate interexchange services, TCCF is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's resale of interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. TCCF shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If TCCF changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, TCCF shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

10. TCCF shall file surveillance reports on a calendar or

fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. TCCF shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The proper form for filing the regulatory contact information is indicated on Attachment B. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

12. As a condition of offering debit card services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which

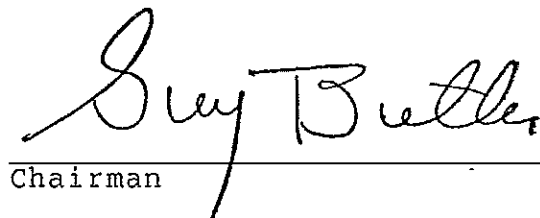
maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.

13. TCCF shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

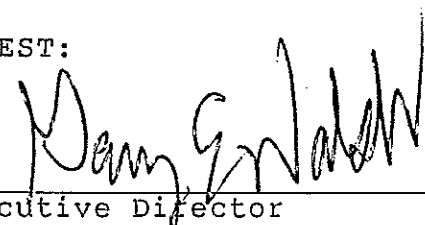
14. The Stipulation filed by TCCF and the SCTC is approved by this Commission, is binding upon TCCF and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

DOCKET NO. 97-272-C & 97-273-C - ORDER NO. 97-890
OCTOBER 16, 1997
ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FBI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

DOCKET NO. 97-272-C & 97-273-C - ORDER NO. 97-890
OCTOBER 16, 1997
ATTACHMENT B

INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230